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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,981	11/27/2000	Eric Morgan Dowling	EMD-FED.001CIP1	5884

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EXAMINER

BATES, KEVIN T

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,981

Applicant(s)

DOWLING, ERIC MORGAN

Examiner

Kevin Bates

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Change of Address was received on August 20, 2002.

The Information Disclosure Statement was received on November 27, 2000.

This Office Action is in response to a communication made on November 27, 2000.

Claims 1-20 are pending in this action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 6-9, 11-14, and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mashinsky (6005926).

Regarding claims 1, 12, and 20, Mashinsky discloses a method of selling federated telephony access services with the assistance of associates (Column 2, lines 19 – 22; 29 – 30), the federated telephony access services accessible to users of a merchant web site which provides services for allowing users to electronically lease telephony access connectivity (Column 2, lines 31 – 37; Column 11, lines 7 – 12), the method comprising: enrolling a plurality of associates using an on-line registration system (Column 6, lines 6 – 9), whereby each said associate supplies at least one

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parameter describing local connectivity of a telephony gateway supplied by said associate (Column 6, lines 27 – 32), and whereby said telephony gateway links an Internet protocol (IP) network to a public switched telephone network (PSTN) (Column 3, lines 65 – 67); receiving from a remote client a request for a telephony connection with a specified telephony endpoint (Column 4, lines 27 – 37); performing a database translation to correlate said telephony endpoint with a destination network (Column 5, lines 11 – 40), said database translation producing one or more results (Column 10, lines 6 – 18); selectively establishing said telephony connection by one of an IP telephony packet network and said PSTN, said selection being based upon at least one said results; when said destination network involves said PSTN, (i) selecting an associate gateway by correlating at least one of said results with said at least one parameter, such that when the result of said correlation indicates the telephony gateway best suited to provide access to said destination (Column 10, lines 6 – 18; Column 2, lines 19 – 29); and (ii) paying a fee to said associate for supplying said telephony gateway service (Column 6, lines 51 – 52).

Regarding claim 4, Mashinsky discloses that remote client is an IP telephony user who's control signals are generated by a signaling system number seven call establishment server (Column 2, lines 56 – 65).

Regarding claim 6, Mashinsky discloses that said web site uses a programmatic interface to allow a new gateway system to be registered as an associated gateway, said programmatic interface using computer-to-computer transactions to register said gateway as an associated gateway (Column 6, lines 7 – 14).

Regarding claim 7, Mashinsky discloses that said web site uses a user interface form to allow a new gateway system to be registered as an associated gateway (Column 6, lines 7 – 14).

Regarding claim 8, Mashinsky discloses that said associates comprise individual entrepreneurs who install a gateway to provide a local gateway service (Column 2, lines 19 – 22; Column 4, lines 38 – 42).

Regarding claim 9, Mashinsky discloses that said parameter comprises a country code and/or an area code associated with said PSTN local to said gateway (Column 6, lines 26 – 32).

Regarding claim 11, Mashinsky discloses that said parameter comprises a selection of a geographical position associated with said gateway, said selection being made from a user interface form (Column 6, lines 26 – 32).

Regarding claim 13, Mashinsky discloses charging a second fee to said caller for establishing said hybrid connection (Column 9, lines 3 – 14; lines 34 – 41).

Regarding claim 14, Mashinsky discloses that said second fee is based on a fixed connection fee plus a fee charged by said PSTN local to said gateway (Column 9, lines (Column 24 – 41).

Regarding claim 16, Mashinsky discloses monitoring a set of quality of service statistics associated with said gateway (Column 19, line 17 – 26; lines 55 – 64); and adjusting said fee paid to said associate based upon said statistics (Column 19, lines 43 – 54).

Regarding claim 17, Mashinsky discloses monitoring a set of quality of service statistics associated with said gateway (Column 19, line 17 – 26; lines 55 – 64); and ceasing to route calls to said associate when said statistics indicate that said quality of service is below a threshold (Column 19, lines 43 – 54).

Regarding claim 18, Mashinsky discloses that at least one of said associates is a small business that supplies a gateway for a single locality (Column 2, lines 19 – 22; Column 4, lines 38 – 42).

Regarding claim 19, Mashinsky discloses that at least one of said gateway comprises a TI connection and a DSL connection (Column 3, line 65 – Column 4, line 8, where TI and DSL are examples of connection types that can make up a local and global networks).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky in view of Diaz (5754786).

Regarding claims 2 and 3, Mashinsky does not explicitly indicate that said remote client is a SIP server or that it is an enhanced SIP server. Diaz teaches a telephone switching system that includes enhanced SIP servers (Column 4, lines 39 – 45). It would have been obvious to one of ordinary skill in the art at the time the invention was

made to use Diaz's enhanced SIP servers in Mashinsky's system in order to provide the telephone network with the ability to monitor and reject requests in the system in order to ensure that the system is not running past its capacity (Column 2, lines 25 – 34; Column 4, lines 1 – 17).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky in view of Voit (6185204).

Regarding claim 5, Mashinsky does not explicitly indicate that said telephony gateway causes a wireless call to be directed to said endpoint. Voit teaches a telephone switch system that extends the ability of the IP phone to be used with cellular phones (Column 5, lines 59 – 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Voit's teachings of extending the capabilities of the telephony packet switched network to include wireless devices in order to expend the telecommunication functions performable in the network (Column 5, lines 20 – 36).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky in view of Preston (6236652).

Regarding claim 10, Mashinsky does not explicitly indicate that said parameter comprises a set of global positioning system (GPS) coordinates that define the geographical position of said gateway. Preston teaches a network where the nodes in the network use their own GPS coordinates to identify themselves (Column 5, lines 24 – 34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Preston's teaching of GPS coordinates in Mashinsky's

system in order to have each node's location be determine, exact, and unique to help with routing functions (Column 5, lines 24 – 43).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mashinsky in view of Khasnabish (6411679).

Regarding claim 15, Mashinsky does not explicitly indicate automatically placing a sequence of one or more test calls to verify operation of said gateway. Khasnabish teaches a IP telephony system that tests communication in the system (Column 1, lines 61 – 67; Column 3, lines 17 – 31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Khasnabish's testing teaching in Mashinsky's system in order to ensure all the nodes and devices are working properly and at a desirable performance level (Column 1, lines 31 – 50).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent No. 6693886 issued to Haikonen because it has wireless devise and voice to IP gateways.

U. S. Patent No. 5790642 issued to Taylor because it has fee based telephone routing.

U. S. Patent No. 6515997 issued to Feltner because it has voice gateways and a method of configuring them with a third party.

U. S. Patent No. 6205211 issued to Thomas because it has associate owned gateways in a fee based telephone routing system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (703) 605-0633. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (703) 308-6662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB
March 23, 2004


HOSAIN ALAM
SUPERVISORY PATENT EXAMINER